

1 From there we unhooked the chains and get
2 the wench and hook it up with the, with that truck and
3 took it.

4 Q So you unhooked the two trucks and then turned
5 the SMC truck back around facing south?

6 A Correct.

7 Q And then hooked it up with a chain to the
8 Salinas vehicle?

9 A Correct.

10 Q And towed it with a chain?

11 A Yes, ma'am.

12 Q To a rest, some sort of truck stop?

13 A Truck stop; yes, ma'am.

14 Q And was that on the same day the accident
15 happened?

16 A Yes, ma'am.

17 Q Had you had any drugs or alcohol on the day the
18 accident happened?

19 A No.

20 Q Or within the --

21 A I don't do no drugs and I don't drink.

22 Q How much sleep had you had?

23 A Enough. I had my ten hours sleep.

24 Q How much sleep had Roy had?

25 A I have no idea, ma'am.

1 Q Do you know where Eddie was at when the impact
2 happened?

3 MR. FRANKL: Objection, asked and answered.

4 Q (By Ms. White) Has Eddie ever said he saw either
5 of them?

6 A (Nods head.)

7 MR. FRANKL: Is that a no?

8 A No.

9 Q Did you guys have any flares with you in the
10 trucks?

11 A I don't know, ma'am, because the truck was not
12 ours. From that other company, we didn't know it did or
13 not.

14 Q Did the Salinas truck have any flares in it?

15 A I have no idea. We usually use only the
16 triangles.

17 Q Was there any prior occasion that you had to use
18 the emergency triangles?

19 A I don't know.

20 Q During the period you worked with Salinas
21 Express was there any other occasion where you had to set
22 out the emergency triangles?

23 A Yes, some time I had a blowout in one of the
24 tires.

25 Q Do you know when that was?

1 A To be exact, I don't remember but it was after
2 the accident.

3 Q It was dark at the time the accident happened?

4 A Yes, ma'am, it was.

5 Q And the only lighting is at the rest area?

6 A Yes, ma'am.

7 MR. FRANKL: Are you saying the only
8 lighting at the scene?

9 MS. WHITE: Yes.

10 Q (By Ms. White) Were there -- the emergency
11 flashers that you had on, were they just in the rear of
12 the tractor or were they any side flashers?

13 A The flashers we use, it will be the one the
14 truck have.

15 Q Okay.

16 A It got both sides, left and right.

17 Q Is that on the rear of the tractor, like on the
18 taillight section of it?

19 A Yes, ma'am.

20 Q So it didn't --

21 A It would be the hazards, I'm sorry.

22 Q The hazards lights?

23 A Yeah, that would be the hazards. I'm sorry, I
24 messed up.

25 Q Just like hazard lights on a normal car?

1 A Correct.

2 Q And -- so you continued to drive for Salinas
3 Express after the accident?

4 A After the accident I stayed at home like almost
5 for a month, but I had to work, and they told me I could
6 be able to work with them, and I did.

7 Q Was any sort of adverse action taken against
8 you, any disciplinary action or anything?

9 MR. HEARN: Objection. You can answer.

10 A No.

11 Q And did -- and then you guys returned with the
12 Salinas tractor, the broken down Salinas tractor to
13 Zapata?

14 MR. FRANKL: Objection, form.

15 MR. HEARN: Join.

16 A We met, both of us, it was just halfway out of
17 Virginia, and I left with Eddie because he had to turn
18 that load, the one that Roy had. It was already late and
19 they had to turn it in the next day.

20 Q So you went with Eddie to take the, to finish
21 the load?

22 A Yes, ma'am.

23 Q And so, Roy --

24 A And Art.

25 Q And Art returned the Salinas tractor to Texas?

1 A The SMC truck. They came on the SMC truck.

2 Q They were driving the SMC truck but they were
3 towing away the broken down --

4 A Correct.

5 Q -- Salinas tractor. They were completing, they
6 were taking the Salinas tractor back to Zapata?

7 A Yes, ma'am.

8 Q Did you ever see the SMC tractor after that
9 evening?

10 A No, ma'am.

11 Q Do you know who repaired it?

12 A No, ma'am.

13 Q Was the Salinas tractor eventually repaired?

14 A Yes, ma'am.

15 MR. FRANKL: Can you tell me which tractor
16 you're talking about?

17 MS. WHITE: The broken down Salinas
18 tractor.

19 Q Was eventually repaired?

20 A Yes, ma'am.

21 Q Have you driven it since the accident?

22 A No, ma'am. Correction, I did.

23 Q When was that?

24 A Like after the accident. It was about like, I
25 would say a month ago after the accident. That's when I

1 had to help Roy, he couldn't be able to drive. That's why
2 they asked me if I could help or not on his truck.

3 Q And why couldn't Roy drive?

4 A I have no idea. Those are the two checks that
5 my wife got from Roy.

6 Q On that job you helped him out?

7 A Yes, ma'am.

8 Q After?

9 A After the accident.

10 Q When you are sitting there, looking left, up
11 Interstate 1, is there sort of hill there?

12 A Yes, ma'am.

13 Q Do you know how far along you can see?

14 A No, ma'am.

15 Q Besides the lady who worked at the rest stop and
16 the trooper, did you talk to anyone else at the accident
17 scene? Did you talk to more than one trooper?

18 A Yes, ma'am.

19 Q Two troopers maybe?

20 A Yes.

21 Q Did Roy ever talk to the trooper?

22 A I have no idea.

23 Q Did Eddie ever talk to either of the troopers?

24 A I don't know. I never saw them, that's why.

25 Q Did Art ever talk to either trooper?

1 A I have no idea. What I'm saying I have no idea
2 about that because they just stepped me on one side of
3 them. I was -- where the entry was at, where the accident
4 just happened, and they were over here in the truck that's
5 why I don't know if they did talked to them or not.

6 Q Where did the trooper have you stationed?

7 A I was in the same place. I was right here, but
8 I had to walk all the way to where the accident was at, so
9 they wanted to talk to me, that's why.

10 Q How did you find out that the trooper wanted to
11 talk to you?

12 A Because one of them came over to the truck and
13 talked to me. They needed the papers and logbooks and
14 everything, and they wanted me to go back over there where
15 their vehicle was at.

16 Q So the first time you ever talked to any
17 trooper, you were standing over by the SMC truck?

18 A I was on it.

19 Q You?

20 A I was here.

21 Q And that's the first time you ever talked to
22 either of the troopers?

23 A Yeah, because I, when I was -- because I walk
24 over here, I wanted to talk to them but they were kind of
25 busy. They just told me step one side and they were going

1 to talk to me later on. They were going to talk to me
2 later. The only thing I did, came back to the truck and
3 started looking for those papers that I needed, the
4 logbooks and everything, so I can be able to have them
5 with me by the time they going to call me.

6 Q So had they requested that you go look for them
7 or you started looking for them on your own?

8 A They request me, they told me.

9 Q So where were you the first time you spoke to
10 either state trooper?

11 A On the truck.

12 Q You were at the truck?

13 A Yes, ma'am.

14 MS. WHITE: We'll just take a break.

15 THE VIDEOGRAPHER: Time is 4:17 in the
16 afternoon and we are off the record.

17 THE VIDEOGRAPHER: We are back on the
18 record. The time is 4:25 in the afternoon, and you may
19 continue with the deposition, please.

20 MS. WHITE: Trying to wrap up here quickly.

21 Q (By Ms. White) Have you ever received any sort of
22 1099 or tax form from Salinas Express?

23 A No, ma'am.

24 Q When the two vehicles, the SMC vehicle and the
25 Salinas Express vehicle, are connected at the rest area in

1 Virginia, are they connected in any way electrically?

2 A They were connect -- they were hook up but with
3 chains and they had a wire with some -- some -- with
4 some --lights in front.

5 MR. HEARN: Please continue asking your
6 questions.

7 Q (By Ms. White) So they were connected with a
8 wire?

9 A They had to put like some lights in front the
10 Salinas trucks so we have some lights on the other end.

11 Q And were those -- how were those controlled?

12 A From the SMC truck on those, they had like a
13 little, I don't know to be honest -- got a little plug
14 they plug it in, and that was like a big old plate in
15 front they hook up in front of the truck, so we have the
16 stop and blinkers and everything on.

17 Q And do you know was that functioning at the time
18 of the accident?

19 A Yes, ma'am, it was.

20 Q Did you guys test that out?

21 A Yes, ma'am, we did.

22 Q Whenever you did a job for Salinas Express, the
23 logbook that you would keep would always go with the truck
24 itself?

25 A Yeah, because we were assigned for that truck.

1 Q All right.

2 A We left everything, all papers and logs and
3 everything because there were -- like later on that day
4 they were going to pick them up, they would get the
5 logbooks and the paperwork so they can be able to keep it,
6 I think.

7 Q And did you ever keep any copy of any logbook?

8 A I never did.

9 Q Had you recorded any time in any logbook for the
10 trip to Virginia when the accident happened?

11 A No, ma'am.

12 MR. DUNN: I'm sorry, what was the answer?

13 THE WITNESS: No.

14 MS. WHITE: Those are all the questions I
15 have.

16 EXAMINATION

17 BY MR. DUNN:

18 Q Mr. Martinez, you never worked for SMC
19 transport, correct?

20 A Correct.

21 Q On that date of October 25th, 20 --
22 October 26th, 2015, you were helping out Roy Salinas,
23 correct?

24 A Correct.

25 Q And helping out Salinas Express, correct?

1 A Yes, sir.

2 Q No one from SMC Transport went on the trip with
3 you on that day?

4 A No, sir.

5 Q Correct?

6 A Correct.

7 Q No one from SMC Transport paid you for that
8 particular trip, correct?

9 A Correct.

10 Q No one from SMC Transport was telling you what
11 to do that day, correct?

12 A Correct.

13 Q In fact, the only connection you have with SMC
14 Transport was that you happened to be in a vehicle that
15 was owned by SMC Transport, correct?

16 A Correct.

17 Q SMC Transport didn't receive any benefit from
18 the use of its vehicle, correct?

19 A Correct.

20 Q The Eddie gentleman that came along on the trip,
21 he never worked for SMC Transport, did he?

22 A Correct. No, he didn't.

23 Q And you didn't -- you never overheard Sergio
24 Cuellar discuss anything about the use of that SMC truck?

25 A Correct.

1 Q As far as you know, no one from SMC Transport
2 made any phone calls to you guys when you were traveling
3 from McAllen up into Virginia, correct?

4 A Yes, sir, correct.

5 MR. DUNN: Thank you very much.

6 EXAMINATION

7 BY MR. FRANKL:

8 Q Mr. Martinez, my name is Dan Frankl. I
9 represent Salinas Express. In line with the questioning
10 that Mr. Dunn just asked you, do you know if Sergio
11 Cuellar is an owner of SMC?

12 A I think it is.

13 Q And he met you at a truck stop in McAllen,
14 Texas?

15 A Correct.

16 MR. DUNN: I'm going to object to the form
17 of the question.

18 Q (By Mr. Frankl) Didn't he meet you in a truck
19 stop in McAllen, Texas before this accident?

20 MR. DUNN: I'm going to object to the form
21 of the question. It was not to meet Israel Martinez.

22 Q Did he -- did Sergio Cuellar come to the truck
23 stop in McAllen, Texas where you, Roy and Eddie were
24 before this accident?

25 A Correct.

1 Q And was the purpose of him -- well, while he was
2 there, did he load Eddie Lazaro's tractor onto the back of
3 the SMC tractor using the wench?

4 A Correct.

5 MR. DUNN: Object to the form of the
6 question. Go ahead. He's already answered it.

7 Q (By Mr. Frankl) And he's physically the one that
8 connected the two tractors together?

9 A Correct.

10 Q Do you know who called Sergio and asked him to
11 come to that truck stop?

12 A No, sir.

13 Q But as a result of his presence, did you know
14 you had authorization to drive the SMC tractor?

15 MR. DUNN: Object to the form of the
16 question. There's no basis for it. No foundation has
17 been laid. Go ahead and answer the best you can.

18 A Nobody told me anything.

19 Q (By Mr. Frankl) Did -- is it your understanding
20 that Roy called SMC and asked to borrow a truck?

21 MR. DUNN: I'm going to object to the form
22 of the question. Haven't laid a proper foundation.

23 Q Are you aware whether or not -- are you aware
24 how the SMC truck got involved in this whole situation?

25 MR. DUNN: I have to object to the form.

1 You got to lay the foundation. When you say aware, this
2 could be all sorts of different sources for that.

3 MR. FRANKL: Understand. And so if there
4 are different sources, we'll find out what they are.

5 MR. DUNN: That's why I made the objection.

6 Go ahead, answer.

7 A I think he did because he went over there and
8 show up to help us hook up the other truck.

9 Q When you were contacted initially, you said
10 initially you were contacted by Rudy?

11 A Okay.

12 Q And did Rudy ask you if you had time to help Roy
13 get his truck from Virginia?

14 A Correct.

15 Q All right. Was it going to be on behalf of
16 Salinas Express that you were doing this trip or was it on
17 behalf of Roy Salinas that you were doing this trip?

18 MR. DUNN: I'm going to object to the form
19 of the question.

20 MR. HEARN: I'll object, asked and
21 answered, but go ahead.

22 A I don't know.

23 Q Were you expecting to be paid for taking this
24 trip up to Virginia?

25 A No.

1 Q When you met at the Salinas yard, did you
2 overhear Roy making arrangements to go to McAllen to pick
3 up the SMC truck?

4 A No.

5 Q What did Roy say?

6 A He just went -- we just went to Salinas yard and
7 he left me -- we were waiting for Eddie to arrive so I can
8 be able to take off with Eddie.

9 Q And did he tell you what the purpose of you
10 going to McAllen was?

11 A No, I didn't, but I knew it was for that because
12 we were supposed to take another truck with a wench and
13 everything.

14 Q Do you know how the arrangements were made for
15 an SMC truck to be involved --

16 A No, sir.

17 Q -- in this traveling to Virginia and hooking up
18 with the disabled Salinas truck?

19 A No, sir.

20 Q Who drove the SMC truck out of the truck stop
21 after Sergio hooked up Eddie's Salinas tractor to the back
22 of it?

23 A Roy.

24 Q Did you have any conversation with Sergio at the
25 McAllen Truck stop?

1 A No, sir, I didn't.

2 Q Were you introduced to him?

3 A No.

4 Q You indicated that you had driven for Salinas on
5 a few occasions before the accident and were always paid
6 in cash?

7 A Correct, sir.

8 Q Did you report that cash that you earned on your
9 tax returns?

10 MR. HEARN: Objection.

11 A No.

12 Q What is your date of birth?

13 A 1-26-1975.

14 Q That makes you how old?

15 A Forty-one.

16 Q How far did you go in school?

17 A Twelfth.

18 Q Did you get a high school diploma?

19 A Yes, sir.

20 Q What year did you graduate?

21 A Ninety-five.

22 Q I think I understand the answer to this question
23 but let me ask it again. When you -- well, did you fill
24 out any logs at all with regard when you left McAllen to
25 when you got to Virginia?

1 MR. HEARN: Objection. Asked and answered.

2 A Yes, I did.

3 Q Okay. So you drove part of the way from McAllen
4 to the rest stop in Virginia?

5 A Part of McAllen?

6 Q From McAllen, Texas?

7 A Yes, we did.

8 Q To the rest stop in Virginia. You drove part of
9 the way?

10 A Yes, sir.

11 Q And the logbook that you wrote in, was that
12 assigned to you?

13 A (Nods head.)

14 Q It was?

15 A It was.

16 Q And where did you get that logbook?

17 A That logbook, we -- I asked for some logs to
18 Roy. He gave me some logs. It was those simple logs.
19 It's not like a book, it's just like single pages. I got
20 some logs from him so I can be able to do mine because I
21 didn't have mine.

22 Q Okay. And you left those pages in the SMC
23 truck?

24 A Correct.

25 Q And it was your practice whenever you did a run

1 with Salinas, was to leave the logbook pages in the
2 Salinas truck?

3 A Correct. I would leave it there because like
4 they were going to go and pick up the papers. That way
5 they can go and get the logbooks because they were
6 supposed to get the logs.

7 MR. DUNN: Let me object. When you say
8 they, who are you talking about?

9 THE WITNESS: For the logs.

10 MR. FRANKL: Pardon me?

11 THE WITNESS: Excuse me?

12 MR. HEARN: That's not an objection; that's
13 a question, so...

14 Q (By Mr. Frankl) When you left the logbooks in the
15 Salinas truck who was it that you understand would pick up
16 the logbooks and the other paperwork with regard to the
17 run you had just done?

18 A I think that it was going to be Rudy.

19 Q Do you know that for a fact?

20 MR. DUNN: Objection; asked and answered.

21 Q Do you know it was Rudy or you think it was
22 Rudy?

23 A I think it was Rudy because he's the one in
24 charge for the papers and everything.

25 MR. DUNN: Let me get back. I had the

1 objection to the answer because it was vague and didn't
2 lay a proper foundation for allowing that testimony. I'm
3 stating that for the record and I was stopped while I made
4 the objection. I understand what you're saying that it
5 should be for a question, but I disagree. I want to make
6 sure the record is clear as far as my objection on that.

7 He referred to "they." I had no idea what
8 they he was referring to, and I was trying to clear that
9 up. I'll give every opportunity for anybody else to clear
10 that up if they want to do that.

11 Q (By Mr. Frankl) As far as the route that you
12 would take on any particular run, you said it was the --

13 A GPS.

14 Q -- GPS. And that just didn't require you to go
15 that way, but you would follow the GPS all the way?

16 A Correct.

17 Q You indicated that you went on two runs with
18 Rudy before the accident and before you filled out the
19 application?

20 A When I barely started.

21 Q Now were you paid for those?

22 A Yes, I was.

23 Q Okay. And other than those two runs, did you
24 ever have a co-driver, other than those two times?

25 A No, sir.

1 Q You indicated in your earlier testimony that at
2 one point in time you were working for I think you said
3 Lupe, you were helping them out, driving a tractor?

4 A Yeah, they asked me because the owner from that
5 company, he's related to my wife. And at that time he
6 needed a driver just to go and do that job for that day.

7 Q All right. But you said you weren't employed by
8 them?

9 A No, sir, I wasn't.

10 Q Were you paid for it?

11 A Yes, I was.

12 Q And so on this particular run you were helping
13 out Roy get his tractor back?

14 A Correct.

15 Q And it's my understanding from your -- that Rudy
16 has a tractor and Sylvia has a tractor and Roy has his
17 tractor, and do you know who is responsible for the
18 maintenance of those individual tractors?

19 A No, sir, I don't.

20 Q On your logs that you say you filled out, did
21 you not write time down that you had done a pre-trip
22 inspection?

23 A Yes, sir, we do.

24 Q Okay. So earlier when you said you never
25 recorded a pre-trip inspection anywhere --

1 A I thought they were saying about recording like
2 a recorder type like, like -- I didn't understand.

3 Q Making an audio recording?

4 A Correct.

5 Q Okay. But you would in fact mark down on your
6 logs that you had done a pre-trip inspection?

7 A Yeah, we had to.

8 Q Now you've looked at, at the rest area overhead
9 photograph exhibit and you can see the, which would be on
10 the far north side of the exhibit, you can see there are
11 two lanes for through traffic on Interstate 81 south?

12 A Uh-huh.

13 Q Then there's a dotted white line and that's the
14 beginning of the entrance to the rest area?

15 A Yes, sir.

16 Q And then to the right of that there's a white
17 solid white line?

18 A Uh-huh.

19 Q That's to the right -- to the right of that
20 would be the shoulder of the road?

21 A Correct.

22 Q And if I understand your testimony, there were
23 tractor trailers parked all along that, on the right
24 shoulder of that ramp?

25 A On this side, on this other side.

1 Q Hold it up so we can see.

2 A On this other side there were a couple of
3 trailers and tractors parking. On this other one they
4 were parked like almost through here.

5 Q That's what I was going to ask you. On the side
6 which would be closest to -- I guess farthest away from
7 the Interstate, there were tractor trailers lined up
8 against that?

9 A Correct; yes, sir.

10 Q Now in the photograph you're looking at, looks
11 like a double trailer that's white?

12 A Uh-huh.

13 Q Were there tractor trailers parked along what
14 would be the left side of that entrance ramp?

15 A Yeah, there were.

16 Q And how many tractor trailers were along --

17 A On that one I think there were about two of
18 them.

19 Q Okay. And so initially, when you drove the
20 wrong way up the entrance ramp you had to pass those
21 tractor trailers on your right and you had also tractor
22 trailers on your left?

23 A Correct.

24 Q Okay. And if I understand your testimony, you
25 had Art and Roy acting as spotters -- and I want to

1 clarify. Are you indicating that they were spotting for
2 any vehicles that might be coming into the rest area?

3 A Correct.

4 Q They weren't spotting for you as to traffic on
5 Interstate 81?

6 A They were because they were checking for
7 vehicles to approach where I was at.

8 Q But they were both on the ramp side of your
9 truck, were they not?

10 A Okay, I really don't understand that part.

11 Q Okay. When -- where was Roy -- you've indicated
12 where Roy was?

13 A Uh-huh.

14 Q He would have been to the left of your vehicle
15 as you were coming out the entrance?

16 A On my driver's side.

17 Q Driver's side?

18 A Correct.

19 Q And Art was -- where was Art?

20 A On the same.

21 Q Okay. So they were both on the ramp side?

22 A Correct.

23 Q Okay. So they, they weren't directing you as to
24 how far out into the road you were going?

25 A But, they were, they were looking at where I was

1 at.

2 Q Okay.

3 A Because they were just kind of -- where I was
4 at -- they were kind of like steps away from where I was
5 at because they were trying to help me out so I could be
6 able to back up.

7 Q And so they were back there so you wouldn't run
8 into the tractor trailers that were on the far right
9 shoulder?

10 A They were, they were, they were here because
11 they were trying to avoid some accident because that guy
12 was -- I was heading the wrong way because that was the
13 only way that I could be able to travel because there was
14 no other way I could be able to turn.

15 Q At some point in time Roy told you to stop?

16 A Yes, sir, he did.

17 Q Okay. And -- but if I understand your
18 testimony, you were watching for traffic coming down the
19 Interstate?

20 A Yeah, I was but I never saw because there's like
21 a little hill that I couldn't be able to look that far,
22 where I was at.

23 Q But you didn't have anybody farther up the ramp
24 that would have been able to see over the hill either, did
25 you?

1 A No.

2 Q If the front of your vehicle got into -- if it
3 did, I understand you're not sure -- if it went into the
4 right-hand traffic lane of Interstate 81, how far or how
5 much that of lane would it have gone into?

6 MS. WHITE: I'm going to object to
7 speculation.

8 A The only thing that I can figure out if I was in
9 that vehicle, the Toyota was going to go straight where I
10 was at.

11 Q All right. Well, let me ask you this. Did you
12 ever have the front of your vehicle get all the way
13 blocking the whole right-hand lane of Interstate 81?

14 A No, sir, I never did.

15 Q All right. Did it get halfway into the lane?

16 A No, sir; not that I know.

17 MS. WHITE: Object to the speculation.

18 Q Did you ever have your vehicle fully across both
19 lanes of Interstate 18?

20 MS. WHITE: Same objection.

21 A No, sir.

22 Q If I understand your testimony, you said there
23 was a white car in the left-hand lane heading south and it
24 slowed down?

25 A It did because they saw my lights on.

1 Q All right. And your lights would have been
2 across 81?

3 A Correct.

4 Q Not straight up towards oncoming traffic; they
5 would have been perpendicular to the roadway?

6 A Straight up.

7 Q Did that white car slow down significantly?

8 A No.

9 Q You say as a result of that white car slowing
10 down you saw the small pickup truck being driven by
11 Mr. Lester. Did it slam on its brakes?

12 A That's why I think I don't know if he did or not
13 because I heard something but I don't know if it was the
14 brake or it's because he just turned the wheel.

15 Q So either he slammed on his brakes or he turned
16 his wheel significantly and so you heard a noise of tires
17 on the roadway?

18 A I heard something.

19 MS. WHITE: Object to the form of the
20 question.

21 Q Based on what you observed, was Mr. Lester, the
22 driver of the small pickup truck, in control of his
23 vehicle when it struck the SMC vehicle?

24 MS. WHITE: I'm just going to object to the
25 form of the question.

1 A What do you mean exactly?

2 Q Was his truck sliding when it hit you sideways
3 or was it going straight down the right-hand lane?

4 A I don't know to be honest. I think he was
5 sliding because he didn't went straight where I was at.
6 If he did, he would have hit straight out at that, at my
7 front wheel.

8 Q Well, I understand he didn't run into the, into
9 the front of your vehicle.

10 Was there enough room in the right-hand
11 lane for Mr. Lester to have driven by in the right-hand
12 lane without hitting the white car in the left-hand lane
13 or not hitting your vehicle?

14 MS. WHITE: Object to the form of the
15 question; speculation. Those questions have been asked
16 and answered several times.

17 MR. FRANKL: No one has asked the question
18 of whether there was room for a car. And his testimony
19 isn't speculation as to what he saw. And so I'm just
20 saying that's an improper objection.

21 MS. WHITE: Okay.

22 MR. SKAFF: He said multiple times he
23 didn't know where he was.

24 MR. HEARN: Hold on.

25 MR. FRANKL: I'm asking.

1 MR. HEARN: Only one lawyer, please.

2 MS. WHITE: Yeah.

3 Q (By Mr. Frankl) Based on your observation, when
4 you stopped the vehicle you saw a white car in the
5 left-hand lane was there enough room for a vehicle to have
6 passed by your vehicle in the right-hand lane without
7 hitting you or the white car?

8 MS. WHITE: Same objection and lack of
9 foundation.

10 A To be honest, I don't know.

11 Q Okay.

12 A But I think it did because there was enough
13 space. I don't know.

14 Q After the impact -- well, do you know what part
15 of the small pickup truck hit the front left corner of
16 your SMC truck?

17 A Yes, sir, I do. It was the left-hand side --
18 right-hand side from the Toyota.

19 Q The right-hand side of the pickup truck but
20 where, along the front or --

21 A Right in the front, it was like his light bulb.

22 Q As a result of that impact what did the small
23 pickup truck do?

24 A He just went over and parked that side because
25 it was movable truck. It was nothing wrong with that

1 truck. It was just the light bulb that I hit on my light.
2 When I stopped there was nothing wrong. That's why they
3 were trying to move it.

4 Q And if I understand -- he was parked at an
5 angle?

6 A Yes, sir.

7 Q And I want to make sure, was the front of his
8 truck facing toward the rest area?

9 A No.

10 Q The front of his truck was facing toward the
11 rest area?

12 A No.

13 Q The front of his truck was facing --

14 A To the rails. There's some rails going through
15 on this side.

16 Q Guardrail?

17 A Guardrail. His front was facing that way.
18 Let's say he just skipped where I was at and he just went
19 like that.

20 Q And he stopped?

21 A And he just stopped there. It was just like an
22 angle.

23 Q Were his lights still on?

24 A I don't remember but I think it was.

25 Q Are you aware of any reason why he couldn't have

1 driven off the road?

2 A I have no idea, no, sir.

3 MS. WHITE: I'm just going to object to
4 lack of foundation.

5 Q (By Mr. Frankl) Did anyone run up to Mr. Lester's
6 vehicle other than Art Gutierrez?

7 A No, sir.

8 Q How long did it take from the time Mr. Lester's
9 small pickup truck stopped until Mr. Gutierrez ran out
10 there to his vehicle?

11 A Just by, I'm thinking, I'm thinking about two or
12 three minutes because they, it gave him time to go to
13 where he was at, pull him out of the truck.

14 Q I'm asking how long before Art got out to where
15 the pickup truck was?

16 A It wasn't that much time.

17 Q Wasn't much time. So he ran out there right
18 away?

19 A Yeah.

20 Q All right. How long was Art out there with
21 Mr. Lester in the pickup truck before Mr. Lester got out
22 of the pickup truck?

23 MS. WHITE: Asked and answered.

24 A I don't know.

25 Q You recall seeing Mr. Lester standing outside of

1 the pickup truck?

2 A Yes, sir.

3 Q And was he standing there with Art?

4 A Yes, sir; they were both with him.

5 Q All right. How long were they standing there?

6 MS. WHITE: Asked and answered.

7 A I don't know.

8 Q Were they -- okay. You don't know how long they
9 were standing there?

10 A I'm saying, like, it took them I would say,
11 like, two, three minutes because he went over there,
12 pulled him out from the truck, tried to take him over to
13 the safe side where I was at. He still went all the way
14 where I was and told me -- I told him several times when
15 everything happened with the bread truck.

16 Q Did you see Art attempt to help Mr. Lester out
17 of the vehicle?

18 A Yes, sir.

19 Q Did Art help him open the driver's door?

20 A Yes, sir, he did.

21 Q Did -- Mr. Lester, was he able to stand on his
22 own?

23 A Yes, sir, he was.

24 Q And did Art then come back to where you were?

25 A Yes, sir.

1 Q And when Art came back to you where you were,
2 had the bread truck come down the road yet?

3 A Yeah. He got with me. He got with me and tell
4 me, I told him several times, I told him several times --
5 it was like two, three times he repeated that to me when
6 it just happened, everything happened.

7 Q All right. Well, my question is when he came
8 back and told you that, had the bread truck already hit
9 the pickup truck?

10 A I really don't understand that question because
11 it's kind of ...

12 Q Okay. Art went out and helped Mr. Lester out of
13 his vehicle?

14 A Correct.

15 Q Art, at some point in time, came back toward the
16 rest area?

17 A Correct.

18 Q Did Mr. Lester go with him?

19 A No, he didn't want to. He didn't want to.

20 Q What do you mean he didn't want to?

21 A I don't know. He was trying to pull it, try to
22 bring it over with him and he never did. That's why Art
23 came by himself back and told me that I told him several
24 times to come, when --

25 Q When Art came back and told you that, had the

1 bread truck already hit the pickup truck?

2 A I would say, yes, because the time he got with
3 me, he told me, like, twice or that's when everything
4 happened. That's why he got all scared telling me that --
5 he told him several times to come over.

6 Q Did Mr. Lester have enough time to walk from
7 where his vehicle was to a place of safety?

8 MS. WHITE: I'm just going to object to
9 foundation. There's absolutely no way he would know that.

10 Q (By Mr. Frankl) You can answer the question.

11 A I think he will.

12 Q Do you have any knowledge as to why Mr. Lester
13 didn't get out of the road?

14 A No, sir.

15 MS. WHITE: Object to foundation;
16 speculation.

17 Q Did you see the bread truck --

18 MR. SKAFF: Is that a no? I'm sorry.

19 Q Do you know why Mr. Lester --

20 A I don't know.

21 Q -- didn't leave the side of his truck?

22 A I don't know why.

23 Q Okay. From the point in time where Art and
24 Mr. Lester were standing next to the pickup truck, how
25 much time passed before the bread truck hit it?

1 A Like I just told you, like, two or three
2 minutes.

3 Q And did Art stay out there with him until you
4 saw the bread truck approaching?

5 A He just came past to where I was at. I told him
6 several times, just keep on going walking.

7 Q Who went walking?

8 A Art.

9 Q Art. Do you know how close the bread truck was
10 to maybe hitting Art?

11 A I don't know.

12 Q At any point in time after Art -- did Art come
13 back to the rest area side?

14 A Yeah, he did.

15 Q Okay. Did you see Mr. Lester move at all in any
16 direction?

17 A I didn't saw nothing. I didn't saw him.

18 Q Okay. You indicated earlier in some questioning
19 that when the bread truck hit the pickup truck it started
20 spinning?

21 A Correct.

22 Q When you say it started spinning, which vehicle
23 was spinning?

24 A The Toyota.

25 Q The little pickup truck?

1 A Correct.

2 Q Okay. You indicated that -- do you know if the
3 bread truck came into contact directly with Mr. Lester?

4 A Yes, sir, it did.

5 Q The bread truck itself?

6 A Yes, sir.

7 Q Okay. If I understand your -- the way you've
8 described it, Mr. Lester was standing on the south side of
9 his pickup truck?

10 A On the driver's side.

11 Q But it would have been facing further south?

12 A Correct.

13 Q Okay. And when the bread truck, the first thing
14 that the bread truck hit would have been the pickup truck?

15 A Yup.

16 Q All right. And then would the pickup truck, as
17 a result of the impact with the bread truck, have hit
18 Mr. Lester, or did the bread truck itself hit Mr. Lester?

19 MS. WHITE: I'm just going to object to the
20 form of the question.

21 A I don't know.

22 MS. WHITE: As stated, you're asking for
23 speculation.

24 Q (By Mr. Frankl) I'm asking what did you observe
25 the bread truck hit the pickup truck?

1 A Yes, I did.

2 Q Okay. And the pickup truck was between the
3 bread truck and Mr. Lester?

4 A Can you repeat that again?

5 Q The bread truck was on the north side of the
6 pickup truck and Mr. Lester was on the south side of the
7 pickup truck?

8 A (Nods head.)

9 Q No?

10 A No, because the way that Toyota was parking, he
11 was facing the rail from the Interstate. That means the
12 driver's side was on the north side coming down this way.

13 Q Okay.

14 A Going down. (Indicating.) That means when the
15 bread truck was coming this way, the driver's side was on
16 the same side where the bread truck was coming.

17 Q I gotcha.

18 A Then it got hit by the bread truck and that
19 thing just start spinning.

20 Q When you say that thing started spinning --

21 A The Toyota.

22 Q The Toyota started spinning?

23 A -- started spinning and came straight out to the
24 rest area, but only thing it stopped him was a pine, a
25 pine tree.

1 Q So it's your testimony that the bread truck
2 would have hit the pickup truck on the driver's side?

3 A Correct.

4 MS. WHITE: Object to the form of the
5 question.

6 Q Yes?

7 A Yes.

8 Q When the bread truck hit the pickup truck, did
9 you ever see what happened to Mr. Lester at that point in
10 time?

11 A No, I never saw him. The only thing that the PD
12 told me that he flew away.

13 Q That he what?

14 A The police officer told me that he just flew
15 away. He just flew to the other side of the Interstate.

16 Q Look at Exhibit 4. Do you have that exhibit in
17 front of you?

18 A Yes. Here it is.

19 Q All right. You indicated that the individual in
20 the front right was Sergio Cuellar?

21 A Right.

22 Q Do you know who the tall individual is behind
23 him?

24 A Ruben.

25 Q Ruben Salinas?

1 A Salinas.

2 Q All right. Who is the gentleman next to Ruben
3 with the hat?

4 A I don't have no idea. I don't know.

5 Q What about in the very far back?

6 A Roy.

7 Q All right. And who is to Roy's right?

8 A I have no idea. I don't know who it is.

9 Q All right. And who's got the T-shirt, I can't
10 tell what that is, with wings on the front?

11 A I have no idea.

12 Q All right. So basically, we've got Sergio on
13 the right, then Ruben -- you don't know the man with the
14 hat, and then Roy?

15 A Correct.

16 Q Okay. When Roy screamed at you to stop, he
17 would have been behind you to the north of you?

18 MS. WHITE: Object to the form of the
19 question.

20 Q (By Mr. Frankl) Where was Roy standing?

21 A Let's say if I'm facing like that, heading that
22 way, Roy was over here on this side over here.

23 Q Which would have been to your north, to the
24 left?

25 A Correct. Correct.

1 Q He was in the entrance ramp itself?

2 A In the entrance, correct.

3 Q And where was Art in relation to Roy?

4 A I think he was beside him.

5 Q But you have no idea where Eddie was?

6 A Nope.

7 Q As we sit here today, it's your understanding
8 you didn't move your vehicle at all until the police
9 arrived?

10 A Until that lady told me to move.

11 Q Okay. And you said there was an ambulance
12 there?

13 A Yeah.

14 Q But you don't know whether the police were there
15 or not?

16 A No.

17 Q You indicated earlier that after the initial
18 accident and Mr. Lester's pickup truck was stopped on the
19 road that no other traffic went by?

20 A No, sir.

21 MS. WHITE: Asked and answered.

22 Q (By Mr. Frankl) After the bread truck hit the
23 pickup truck, did they both, both vehicles end up on the
24 right shoulder of the road, toward the rest area?

25 A Yes, sir.

1 Q Did any traffic go by after that collision, the
2 second collision, before the police got there?

3 A I don't know.

4 Q When I asked about the flashers on your vehicle,
5 where they were flashing they would show if you were
6 approaching the vehicle from the left or from the rear?

7 A It was the hazards.

8 Q All right. The hazards.

9 You'd see those if you came up behind it?

10 A Uh-huh.

11 MR. HEARN: Is that a yes?

12 A Yes.

13 Q Would you also see lights on the front of the
14 vehicle flashing?

15 A On the front of the vehicle?

16 Q Yes.

17 A Yes.

18 Q So it was just like a car. There's two in the
19 front and two in the back?

20 A Correct.

21 Q On the logs that you used was any of the
22 information preprinted on the log or did you have to fill
23 out all of the information?

24 In other words, was it just a blank form
25 that had the for duty types and you had to put in all of

1 the information or were some of the information
2 preprinted?

3 A On the logbooks?

4 Q On the logbook.

5 A It had some information on it.

6 Q It was preprinted?

7 A Uh-huh.

8 Q It wasn't handwritten, it was actually
9 preprinted?

10 A Yeah, that's the way they give us the logbooks.

11 Q And if I understand what you indicated earlier,
12 even though you had a CDL, working with Salinas was the
13 first time you actually went over the road and had to fill
14 out logbooks?

15 A Yes.

16 Q Were you taught how to fill out logbooks?

17 A Yes.

18 Q Who taught you?

19 A Rudy.

20 Q Did Eddie ever tell you where he was when the
21 accident took place?

22 A No, sir.

23 Q You had your window open.

24 Could you tell whether or not the engine on
25 the small pickup truck if it was still running?

1 A I don't know.

2 Q After the accident and you ultimately unhooked
3 and chained the Salinas disabled tractor to the SMC
4 tractor and drove it to a truck stop down the road?

5 A No, sir.

6 Q Who drove it?

7 A Roy drove it.

8 Q Roy drove it --

9 A But it didn't move it all the way to the truck
10 stop. They just moved it to the exit of the rest area so
11 we can be able to have some time to change it, get some
12 chains and tie it up so we can be able to pull it over
13 because it won't run. You can move it but it was kind of
14 slow. It was just popping.

15 Q So you actually were just at the south end of
16 the rest area when you re-hooked the Salinas disabled
17 tractor on to the back of the SMC tractor?

18 A What do you mean south side? You mean the exit
19 side?

20 Q The exit side.

21 A Yes, sir.

22 Q And the reason that you had to hook it the back
23 of the SMC truck was because you needed to lift the power
24 wheels to include the differential off the roadway?

25 A Correct.

1 Q After you re-hooked the disabled Salinas tractor
2 onto the back of the SMC tractor is that when you got in
3 the other tractor with Eddie at the rest area still?

4 A No, sir.

5 Q When did you get in the tractor with Eddie?

6 A We got out from Virginia. We stop at -- we stop
7 at, I don't know where it was at, but it was a truck stop
8 and that's where I just went with Eddie.

9 Q So you --

10 A Roy.

11 Q -- Roy and Art left the rest area with -- in the
12 SMC truck?

13 A Yes.

14 Q It was later at another truck stop you got out
15 and got in with Eddie?

16 A Correct.

17 Q You went back with him to Laredo and then to
18 Zapata?

19 A Correct.

20 Q Was there anything mechanically wrong with the
21 SMC truck from when you got in it in McAllen, Texas, until
22 you left it at that truck stop after you left this rest
23 area, were there any mechanical problems with it?

24 A I don't know. I don't think so.

25 Q After the accident, do you know where Art went

1 after he came and told you, I tried to get him to come
2 along with me, do you know where he went?

3 A I think he left with Eddie because Eddie -- the
4 truck of Eddie's, it was still there, but I don't know if
5 he did or not.

6 Q There were a number of cars that pulled into the
7 rest area. Do you recall them pulling in and stopping
8 along the left-hand side of the entrance ramp?

9 A Can you repeat that again? What do you mean?

10 Q There were a number of cars -- well, that's what
11 I'm trying to determine.

12 Do you remember any vehicles coming into
13 the rest area while you were maneuvering the SMC tractor?

14 A No, sir.

15 Q Okay. So did any cars pull into the rest area
16 while you were backing your tractor and the both tractors
17 in the rest area?

18 A Unh-unh.

19 Q You don't remember?

20 A No.

21 MR. FRANKL: I don't have any other
22 questions.

23 Thank you.

24 MR. HEARN: Anything else?

25 MS. WHITE: Yeah.

REEXAMINATION

BY MS. WHITE:

Q Ultimately, you guys going up to the rest area in Virginia allowed Roy to deliver his load, correct?

A Can you repeat that? I don't understand.

Q Sure. The ultimate benefit of the trip was allowing Roy to be able to deliver his load with Eddie's tractor?

MR. FRANKL: Objection to the form.

A Correct.

Q And also to complete the last leg of the trip for the broken down tractor?

A Like --

Q Going up and getting it allowed the broken down tractor to complete the last leg of its trip?

A Correct.

MS. WHITE: That's all I have.

MR. DUNN: Real quick here.

REEXAMINATION

BY MR. DUNN:

Q When Rudy Salinas called you to ask you about going on this trip to Virginia, you agreed to accept that request to stay in the good grace -- one of the factors, to stay in the good graces of your boss; is that correct?

MR. FRANKL: Object to the form.

1 Q Is that a yes?

2 A Yes, sir.

3 Q Now, you mentioned earlier something about I
4 believe the logbooks were Salinas Express logbooks?

5 A Correct.

6 Q Is that because they had a name on the logbooks?

7 A Yes, sir.

8 Q Salinas Express?

9 A Uh-huh.

10 MR. HEARN: Was that a yes?

11 A Yes, sir. Sorry.

12 MR. HEARN: That's okay.

13 Q (By Mr. Dunn) You said you left the logbooks in
14 the SMC Transport tractor because you assumed it would get
15 back to Rudy Salinas?

16 MR. FRANKL: Objection.

17 A Can you repeat that again?

18 Q Yes. You left the logbooks in the tractor, in
19 one of the tractors?

20 A Uh-huh.

21 MR. HEARN: Is that a yes?

22 A Yes, sir. Sorry.

23 Q Because you assumed it would get back to Rudy
24 Salinas, the logbooks?

25 A Yes, sir.

1 Q And the truck stop where you had -- where the
2 disabled Salinas Express tractor was towed to, is that
3 where the disabled Salinas tractor was repaired?

4 A No, sir.

5 Q Okay. What happened at that truck stop?

6 A We just -- we had to take the chains out of the
7 tractor and get, and tried to do the same thing over
8 again. Get the SMC truck, back it up and get it with a
9 wench so we can go to drive all the way to Texas.

10 Q So there were no -- no any type of repairs of
11 service or anything charged to anybody as a result of
12 being at that truck stop there --

13 A No, sir.

14 Q -- after you left the rest area?

15 A No, sir.

16 MR. DUNN: All right. Thank you.

17 REEXAMINATION

18 BY MR. FRANKL:

19 Q Okay. If I understood your earlier testimony,
20 you knew you weren't getting paid for this run; isn't that
21 correct?

22 A Correct.

23 Q And you left the logs in the SMC tractor?

24 A Correct.

25 Q And whether or not they got back, where they

1 went, really didn't make any difference as far as pay or
2 anything of that nature?

3 A I thought they were going to get it because Roy,
4 he was on it. Still, I didn't have my logbook. That's
5 why I left it in that truck because those logbooks they
6 were supposed to be in that truck. It was assigned for
7 that truck.

8 Q It was assigned -- those logs were assigned to
9 the SMC truck?

10 A Yeah, because that's the truck that I was riding
11 with. That's the first truck that we took off to
12 Virginia.

13 MR. FRANKL: No further questions.

14 MR. DUNN: I got to follow up on that.

15 REEXAMINATION

16 BY MR. DUNN:

17 Q Sorry. When you say assigned to that truck, the
18 logbooks you're talking about that were in the truck --

19 A Yes, sir.

20 Q -- the SMC truck?

21 A Yes.

22 Q But they're still a Salinas Express logbook,
23 correct?

24 A It was Salinas Express logbooks.

25 Q Just wanted to make sure that was clear.

1 A Yes, sir.

2 MR. HEARN: All right. We are done. He
3 will read.

4 THE VIDEOGRAPHER: The time is 5:19 in the
5 afternoon and we are off the record.

6 (Signature having been requested, the
7 deposition was concluded at 5:19 p.m.)

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April 18, 2016

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ERRATA SHEET -- CHANGES AND SIGNATURE

PAGE LINE CHANGE

REASON

ISRAEL MARTINEZ, JR.

1
2
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4
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6
7
8 I declare under penalty of perjury that the
9 foregoing is true and correct.
10

11 _____
12 ISRAEL MARTINEZ, JR.
13

14 SUBSCRIBED AND SWORN TO BEFORE ME, the
15 undersigned authority, by the witness, ISRAEL
16 MARTINEZ, JR., on this the ____ day of
17 _____, ____.

18
19 _____
20 NOTARY PUBLIC IN AND FOR
21 THE STATE OF _____
22

23 My Commission Expires: _____
24
25

REPORTERS CERTIFICATION
OF ISRAEL MARTINEZ, JR.
April 18, 2016

I, Annette E. Escobar, Certified Shorthand
Reporter in and for the State of Texas, hereby certify to
the following:

That the witness, ISRAEL MARTINEZ, JR. was
duly sworn by the officer and that the transcript of the
oral deposition is a true record of the testimony given by
the witness;

That the deposition transcript was
submitted on _____, 2016, to the witness or
to the attorney for the witness for examination,
signature, and return to me by _____, 2016;

That the amount of time used by each party
at the deposition is as follows:

JOHNEAL WHITE (2H46M) Attorney for
Plaintiff.
LAWRENCE DUNN (0H05M) Attorney for
Defendant;
DANIEL P. FRANKL (0H45M) Attorney for
Defendant.

That pursuant to information given to the
deposition officer at the time said testimony was taken,
the following includes counsel for all parties of record:

Johneal White, Attorney for Plaintiff(s)
Lawrence Dunn, Attorney for Defendant(s)
David Hearn, Attorney for Defendant(s)
Daniel Frankl, Attorney for Defendant(s)

I further certify that I am neither counsel

April 18, 2016

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1 for, related to, nor employed by any of the parties in the
2 action in which this proceeding was taken, and further
3 that I am not financially or otherwise interested in the
4 outcome of this action.

5 Certified to by me on this 4th day of May,
6 2016.

7
8 
9 ANNETTE H. ESCOBAR
CSR#5475, Exp: 12/31/17

